



AZ POST

INTEGRITY BULLETIN

Volume No. 15



The Arizona Peace Officer Standards and Training Board (AZPOST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZPOST Rules. The following is a summary of the actions taken by the Arizona Peace Officer Standards and Training Board at its **April, May, June and July 2003** public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, the Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. Any "Editor Notes" or "Frequently Asked Questions" sections are historical observations and insights for training and discussion purposes only.

The Board accepted voluntary relinquishment of peace officer certification from four peace officers. The relinquishments are permanent and have the same force and effect as a revocation. It is important to note that there were no findings of misconduct, as the situations described here are based on allegations, not proven facts tested by hearing or other verification process. It is equally important to note that these individuals will never be Arizona peace officers again.

- An officer allegedly restrained a female subject against her will and attempted to coerce sexual favors. He denied the allegations, but agreed to the relinquishment.
- A deputy was alleged to have conspired to purchase stolen property, a VCR that he had been told was stolen. This matter went to hearing, but during the hearing, the deputy agreed to voluntarily relinquish his certification and the hearing was vacated. When it came before the Board, the deputy contended he did not realize that the Board would not accept a temporary relinquishment, and he requested the Board allow him to relinquish his certification without the provision that it is permanent. The Board rejected his request. After further discussion, he entered into a consent agreement for a permanent voluntary relinquishment. The Board adopted the agreement.
- A School Resource Officer allegedly had used a school computer to contact a female friend in Canada and used it to watch her dance nude via the internet. In addition, he allegedly used his position in the school to intimidate his brother-in-law, a student, not to reveal his internet affair.
- An officer was accused of illegal firearms purchases and also the illegal exportation of firearms to Mexico.

CASE NO. 1

DOMESTIC VIOLENCE AND PHYSICAL ASSAULT

Officer A assaulted his wife by striking her numerous times with his fist, dragging her by her hair and kicking her while she lay on the ground. Some months later, he violated a court order by failing to

attend domestic violence classes. The Board revoked his certification for the commission of a crime involving physical violence, malfeasance in office and conduct that tends to jeopardize public trust in the law enforcement profession.

CASE NO. 2

DENIAL FOR REPEATED THEFT CONVICTIONS

Applicant B disclosed two convictions for shoplifting in his background questionnaire. The convictions were approximately five and fifteen years apart respectively, from a time when he was about 35 and 45 years old. Given the evidentiary rule permitting impeachment of testimony with misdemeanor convictions of offenses involving dishonesty and given the pattern of conduct, the Board denied peace officer certification to the applicant.

CASE NO. 3

DISHONESTY DURING ADMINISTRATIVE INVESTIGATION

Officer C worked security at a high school football game. The following Tuesday, the Assistant Principal reported that a parent who wished to remain anonymous complained about inappropriate conduct by Officer C toward female students at the game. Those specific complaints were unfounded, but during the investigation it was learned that Officer C was observed hugging several female students during the course of the game. When asked about hugging, Officer C at first admitted only to hugging his coworker's nine-year-old daughter. Before a first polygraph, he admitted to hugging two females who had graduated the year before as well as the nine-year-old. Prior to a second polygraph he admitted hugging the three previously stated and placing his arm around an older security person. Officer C requested a hearing and defended himself stating that he was answering the specific question asked of him about hugging "students" and none of the girls he hugged were currently enrolled students at the school. The independent administrative law judge found that Officer C did hug students and did deny it and was thus untruthful, but she took care to state that the nature of the dishonesty was minimal and that finding dishonesty at all was a very close call. The Board adopted the findings of fact and suspended the certification of Officer C for one year from the date of his termination.

CASE NO. 4

DISHONESTY DURING A CRIMINAL INVESTIGATION

Reserve deputy D worked as a detention officer. Part of his duties included supervising inmates that were working at the warehouse preparing vehicles to go to auction and running errands for his immediate supervisor. An inmate lodged a complaint that Deputy D's supervisor was possibly involved in a fraud scheme involving impounded motor vehicles. One of the incidents under investigation concerned a motorcycle that Deputy D had picked up from the auction at his supervisor's instruction. When the detective interviewed Deputy D, he asked him if he had transported the motorcycle back to the sheriff's office from the auction site. Deputy D told him that he had not. The following day, the detective approached Deputy D again. This time he admitted that he had lied to the deputy the day before, and then told the truth. He said the reason he lied was he figured it would mean trouble for his supervisor if he told the truth. Deputy D entered into a consent agreement with the state that stipulated to the facts and to the conclusion that the facts were a POST Rule violation. The sanction was left up to the discretion of the Board. Deputy D appeared and urged the Board to suspend rather than revoke his certification. He said the reason he lied was fear, first that he might be in trouble and then that his supervisor might be in trouble. The Board revoked his peace officer certification for malfeasance.

**Editor's Note: The Board has consistently revoked certification where an officer lies to other officers*

who are investigating criminal activity. This has been true whether the individual is a paid officer or a reserve, whether on or off duty, or whether they are considered a suspect or a witness. The Board wants to be clear that there are only two options when speaking to a criminal investigator: tell the truth or invoke the right to remain silent.

CASE NO. 5

DOMESTIC DISPUTE - SIX MONTH SUSPENSION

Officer E and his girlfriend, both certified peace officers, were having an argument. She was upset about one of the numbers on his cell phone caller ID and he wanted to look at her phone to check out her numbers. They wrestled over the keys to her car. He removed them from her and retrieved her phone. As she was preparing to leave, she asked for her phone. He tossed it toward her, but it hit the ground and broke. She told a friend, also a peace officer for a third agency, who told her supervisor. That supervisor notified Officer E's department and criminal and administrative investigations were begun. He was charged with assault, criminal damage and disorderly conduct. All charges were dismissed after he completed a diversion program for damage to property for the phone. His department did not terminate him, but reported the misconduct to POST. POST accepted a consent agreement offered by his attorney that called for a six-month suspension. The suspension coincided with the time that his department had him on administrative leave and assigned to non-sworn duties.

CASE NO. 6

SEX ON DUTY – ONE YEAR SUSPENSION

Officer F admittedly had consensual sexual intercourse while on duty. There was no dishonesty. The Board adopted a consent agreement calling for a one-year suspension beginning on the date the agency terminated him.

CASE NO. 7

DOMESTIC VIOLENCE AND ASSAULT

Officer G assaulted his girlfriend by striking her several times with his fist and hands and later striking her in the face with his elbow. The Board revoked his certification for committing an offense involving physical violence and malfeasance.

CASE NO. 8

THEFT

Deputy H committed theft by pawning her department issued handgun. The Board revoked her peace officer certification for committing an offense involving dishonesty and malfeasance in office.

CASE NO. 9

ASSAULT AND DISHONESTY

Officer J assaulted his spouse twice and her male companion once, and in addition, he lied to the criminal and internal investigators about one of the assault incidents. The Board revoked his certification for the commission of an offense involving dishonesty, an offense involving physical violence, and malfeasance.

CASE NO. 10

MALFEASANCE AND NONFEASEANCE

Officer K submitted a police report that contained false information regarding her involvement in the physical arrest of a man. She also made false statements to internal investigators about the arrest and the subsequent administrative circumstances. The Board revoked her certification for malfeasance.

CASE NO. 11 and 12**FALSIFYING PERSONAL HISTORY INFORMATION**

Officers L and M made a wide assortment of false, incomplete, and misleading statements on their POST Personal History Forms concerning such things as criminal activity, military experience, and drug use. The Board revoked their certifications for willful falsification of the form.

CASE NO. 13**SEX WITH A MINOR**

Officer N was convicted of the felony offense of attempted sexual conduct with a minor, a class 3 felony. The Board imposed the mandatory revocation.

CASE NO. 14**ASSAULT**

Officer P assaulted his wife by striking her repeatedly and pulling her by her hair along the ground. The assault was significant enough that when she sought medical attention for the injuries and bruising they were still apparent a week later. The Board revoked his certification for committing an offense involving physical violence.

CASE NO. 15**THEFT AND MALFEASANCE**

Officer Q stole money from a home where he responded to a dead body call. He also shoplifted about ten times while on duty. The officer revealed this misconduct during an application process with an out-of-state police department when being questioned after an indication of deception during a polygraph interview about theft. The Board revoked his certification for committing offenses involving dishonesty and malfeasance.

CASE NO. 16**ASSAULT**

Officer R was convicted of misdemeanor battery involving his spouse in New Mexico. The Board revoked his certification for the commission of an offense involving physical violence.

CASE NO. 17**DISHONESTY – SIX MONTH SUSPENSION**

Deputy S missed a scheduled appointment to get his patrol car repaired and gave a false, written excuse for his failure to his supervisor. The Board adopted a consent agreement calling for a six month suspension of certification for malfeasance.

CASE NO. 15**MALFEASANCE AND INAPPROPRIATE CONDUCT**

Officer T encountered a male and a female in the parking lot of a fast food restaurant. He engaged in conversation with the female and gave her his business card. A couple of hours later, he observed the same vehicle stopped improperly on the road and made contact. The female was driving. The male had been drinking. Officer F woke up the male and told him to drive himself home. He had the female get into his patrol car and drove her to a location nearby. He stopped the car, placed his arms around her, and kissed her. She resisted his advances and asked him to take her home. He drove her to a relative's home and dropped her off. The Board found that the conduct constituted malfeasance in office and was conduct that tends to diminish public trust in the law enforcement profession. A motion to suspend his certification for a year was defeated by a 5/4 vote. A motion to revoke his certification passed.

OTHER ACTIONS:

During this period, the AZPOST Board closed numerous cases without initiating disciplinary action against the officer's certification because the Board did not believe the rule violations were severe enough to require Board action. All of these officers have been terminated by, or resigned from, their respective departments and will be required to disclose the circumstances when they apply at any other department in the state for peace officer employment. There were 15 cases closed by the Board without issuing a complaint. Some of them involved the following factual situations:

- An officer acting in his capacity as union president authored a letter to the city manager that contained generalizations, exaggerations, hearsay statements and other erroneous information that tended to discredit the department's administration. The Board found the letter to be emotionally charged and incorrect, but not dishonest.
- A young deputy made unauthorized inquiries into the ACJIS database. He had no unlawful intent and he made no improper use of the information he received, but he should have known better through his training.
- A chief of police was alleged to have used inappropriate force by slamming a man's head on a vehicle trunk lid while the man was being taken into police custody. An independent investigation determined that the chief was attempting to bring the man under control and did not use excessive force.
- A sergeant was accused of abandoning his job and misappropriating department equipment. The POST investigation indicated that there was a disagreement about whether or not he was on sick leave and that he had proper possession of all the department equipment located at his residence.
- An officer was accused of falsifying his employment history by failing to disclose an investigation preceding his departure from another agency. The POST investigation revealed that the officer had been truthful and the accusation originated in a mistaken statement by his former captain. No evidence of such an investigation could be located.
- An officer stated a DUI arrestee had been released to a sober friend, when the officer was that sober individual. He also incorrectly tabulated arrest and citation statistics.
- An officer submitted game survey sheets, admittedly unfinished, that contained errors in time and location.
- An officer reported for duty with an odor of alcohol coming from him. There was no evidence that he was under the influence of that alcohol.
- A sergeant twice used his department pick-up truck to transport personal items. He also received remote duty pay when the policy did not entitle him to it. Three of four successive lieutenants knew of the situation and either agreed to the arrangement or condoned it.
- An officer became involved in a minor pushing match with his live-in girlfriend. He physically restrained her movement during the incident, but his actions did not constitute assault.

While the Board took no direct action in these cases, they do not condone, excuse, nor approve of any of the actions. In some of these cases, the Board directed staff to assure that any hiring agency inquiring about the individual would receive full disclosure from the past agency, under the misconduct reporting statute.